



SEP 09 1999

- (a) CLEC CTA Application Form for Bundled Resale
- (b) Revised Tariff Approval Procedures
- (c) CLEC Customer Service Information

These proposed changes were presented to the industry, the Office of the Utility Consumer Counselor, and the public generally, in the form of a "Straw Man Proposal".

Also, on April 28, 1999, the presiding officers issued a docket entry with the proposal attached thereto and requested responses from interested parties. Thereafter, the Commission received several filings. It came to the presiding officers' attention that the docket entry of April 28, 1999 inadvertently did not provide for replies to the comments filed. Therefore, on June 3, 1999, the presiding officers issued a docket entry permitting any party desiring to comment on the submissions of any other parties' responsive proposal should file reply comments on or before June 30, 1999. The Commission was gratified by the responses of interested parties in both their initial comments and their responses to the comments of other parties.

Based on the foregoing and applicable law, the Commission now finds as follows:

**1. Commission Jurisdiction.** The jurisdictional prerequisites set forth in the Commission's Order in this Cause on June 15, 1994, and the broad discretion to investigate matters related to the public utilities within the State of Indiana granted by I.C. 8-1-2-58 remain applicable. The State's interest in a competitive environment for these utilities is well expressed in I.C. 8-1-2.6-1(5) wherein it declares that:

"5. Flexibility in the regulation of providers of telephone service is essential to the wellbeing of the State, its economy, and its citizens and the public interest requires that the Commission be authorized to formulate and adopt rules and policies as will permit the Commission, in the exercise of its expertise, to regulate and control the provision of telephone services to the public in an increasingly competitive environment, giving due regard to the interest of consumers and the public and to the continued availability of universal telephone service."

The Commission has previously determined, in its Order of July 1, 1996 in this Cause, that we have jurisdiction over the providers of telecommunication services within the State of Indiana and the broad subject matter of this proceeding under several statutory sections including I.C. 8-1-2-58, I.C. 8-1-2-59, I.C. 8-1-2-69, and I.C. 8-1-2.6. Additionally, in that Order we found that this proceeding is a proceeding under I.C. 8-1-2.6, and also the federal Telecommunications Act of 1996.

Applicable to this Order, the Commission may, at any time, upon notice and opportunity to be heard, rescind, alter or amend its Order issued in this Cause pursuant to I.C. 8-1-2-72.

Therefore, the Commission retains both the jurisdiction over the parties and the subject matter of this proceeding, and hereby exercises its authority to reopen the proceeding for the limited purposes stated herein.

**2. Commission Discussion and Findings.** The goal of the Commission's straw man was to provide interested parties an opportunity to help develop on new streamlined regulatory and administrative procedures proposed by the Commission in Cause No. 39983. The Commission has reviewed comments and reply comments filed by the parties to this proceeding, and has determined that a technical conference to discuss this proposal in greater depth is not necessary. Based on the initial and reply comments filed by parties, the Commission adopts new streamlined regulatory and administrative procedures, which incorporate many of the suggestions made by parties, described as follows:

**I. CLEC CTA Application Form for Bundled Resale**

Attached to this Order is the form to be used by Competitive Local Exchange Carriers (CLECs) seeking a CTA for bundled resale of local exchange telecommunications services, pursuant to Section 251(c)(4) of the Telecommunications Act of 1996.

As stated in the Commission's straw man proposal, the goal of this revised form is to expedite the processing of CTA applications. The Commission previously decided in Cause No. 39983 that it is not necessary to hold an evidentiary hearing for petitioners that seek a CTA for the bundled resale of an underlying ILEC's local exchange telecommunications service. The Commission believes that this form will shorten the application and review processes because the form clearly outlines the information to be presented. This makes it easier for a carrier to petition the Commission, and less time-consuming for staff to review the application.

The Commission's Interim Procedural Order on Bundled Resale and Other Issues, approved July 1, 1996 in Cause No. 39983, specified that, pursuant to I.C. 8-1-2-88, a carrier petitioning for authority to provide local exchange service on a bundled resale basis must provide the Commission with the following information:

1. Petitioner's corporate authority to provide the service;
2. Petitioner's financial, managerial and technical ability to provide the service;
3. The type, means, and location of service provision; and
4. How the granting of a CTA to the petitioner is in the public interest and will further the development of full and fair competition for telecommunications in Indiana.

The Commission finds that the attached application form fulfills these information requirements.

In addition, the aforementioned Order requires CLECs to comply with several other provisions (e.g., consumer protection, quality of service, and billing rules) contained in the Indiana Administrative Code. Section I of the attached form is a

blanket provision that reminds the petitioner to comply with all applicable Indiana laws, IURC rules, and previous Commission orders.

No party to this proceeding expressed any opposition to the Commission's adoption of this application form. However, the Commission did receive suggestions on how the application form could be amended to clarify the conditions of the CTA and better collect the information required to determine whether a petitioner should be granted a CTA. Based on the filings from parties, the Commission has made the following revisions to the form that was presented in the straw man proposal.

The Commission has included a line at the top of the form for an IURC docket number, as proposed by Ameritech Indiana.

The Commission also incorporated many of the suggestions proposed by the OUCC's initial comments. First, the Commission has included a new section ("H") that asks petitioner to list other states in which it is certified to provide telecommunications services and whether it has been fined or had restrictions placed upon it.

Second, the Commission has made several revisions to section I that clarify the terms of the CTA. Specifically, the Commission has included references to Title 8 of the Indiana Code and 170 IAC 7-1.1, and the Commission has added the word "annual" to better describe the payment of public utility fees. In addition, the Commission has added a requirement that the petitioner update the information submitted on its CTA application form on a regular basis.

Third, the Commission has clarified that the CTA application form must be signed by an officer of the company.

Fourth, the Commission has added new language to the "Additional Information" section which clarifies that: 1) if the petitioner seeks to offer Caller ID service, it must file a separate petition; 2) if the petitioner plans to offer Lifeline/Link-up service, it must be certified as an Eligible Telecommunication Carrier (ETC) as in Cause No. 41052-ETC-1 through 41; 3) if the petitioner plans to provide alternative operator services (AOS), it must separately request AOS authority and agree to comply with regulatory requirements established in Cause No. 38812; 4) if the petitioner seeks the authority to provide facilities-based CLEC service, interexchange service, or competitive access service, it may not do so with this application; and 5) if petitioner seeks a waiver of any of the provisions contained in the Indiana Code, Indiana Administrative Code, or prior Commission orders, it must describe those waivers on a separate sheet. We concur with the OUCC's position that this language will clarify the type of authority granted by this application, if approved, thereby reducing errors and uncertainty on the part of CLECs seeking certification to provide local exchange service on a bundled resale basis.

Finally, as will be discussed later in this Order, the Commission finds that it is in the public interest to require all CLECs, regardless of the manner in which they provide service (i.e., facilities-based or bundled resale) to notify the Commission each time they begin to provide service in an Indiana exchange, and whether they are serving residence and/or business customers in that exchange. Therefore, the Commission has revised section I of the CTA application form to include a new bullet-point that requires the petitioner to provide this information to the Commission pursuant to the terms of its CTA.

The Commission's earlier orders in Cause No. 39983 state that parties other than the petitioner have 30 days from the date the petition is filed to intervene in the cause and request an evidentiary hearing. As described in the straw man proposal, the Commission will review the new application form in the same manner that it currently reviews formal petitions: if the Commission does not receive notice from a party wishing to intervene within 30 days, the Commission may issue an order without a hearing.

## **II. Revised Tariff Approval Procedures**

### **A) Tariff Adoption**

In order to expedite the tariff approval process, the Commission's straw man also proposed to allow a certified CLEC to adopt another CLEC's tariff, so long as such tariff has received final approval from the Commission.

Under the Commission's original proposal, a carrier seeking adoption would be required to submit an affidavit, signed by an officer of the company, which requests such an adoption. The affidavit would include the name of the company whose tariff is to be adopted and any revisions to such tariff. These changes should be described in the affidavit, and should reference, at a minimum, the pages number(s), section or schedule number(s), and paragraph number(s) of the text to be revised. According to our original proposal, the Commission would reserve its right to deny a requested adoption if the Commission believed that the revisions proposed in the affidavit would substantially change the original tariff, in which case the requesting carrier would need to submit an original tariff to the Commission for approval.

In addition, the straw man stated that a carrier which adopts the approved tariff of another CLEC would not be required to file a copy of the tariff with the Commission. Instead, the Commission would maintain a copy of the affidavit in place of a tariff. However, it would be the responsibility of the CLEC requesting the adoption to monitor the original tariff and any changes that subsequently are made to it. If the carrier whose tariff had been adopted made revisions to its tariff, the carrier that had adopted this tariff also would be required to provision its services so as to be in compliance with the tariff it had adopted. If the adopting carrier did not wish to provision its services based on the revisions to the underlying tariff, then that carrier would be required to submit an exception to the adopted tariff.

No party to this proceeding opposed the Commission's proposed tariff adoption procedures, though several parties provided comments on how the process could be revised and/or expanded.

Telecommunications Resellers Association ("TRA") proposed that CLEC resellers be allowed to adopt an ILEC's tariff, and thus would not be limited to adopting only other CLEC tariffs. Since a CLEC's provision of local exchange service on a bundled resale basis is largely determined by the ILEC's underlying service, the Commission finds that it is reasonable to provide CLECs this option.

The OUCC proposed that CLECs be allowed to adopt another carrier's tariff, with revisions, at a single point in time. If the original carrier revises its tariff, the adopting carrier would not be required to mirror these revisions. For example, when a telecommunications carrier seeks to adopt an existing interconnection agreement pursuant to section 252(i) of TA-96, the Commission allows that carrier to adopt the agreement at a single point in time. If the original agreement is amended, the adopting carrier is not required to comply with these revisions, only the agreement which it adopted at a single point in time. It therefore seems reasonable to extend this same policy to tariff adoptions. Thus, we amend language in our original proposal, which would make the adopting carrier revise its service provision in order to comply with any revisions to the underlying tariff, and adopt the policy proposed by the OUCC. For the purposes of administration, the Commission will maintain a copy of the adopted tariff (at the time it is adopted) with the affidavit describing any rate revisions. As a result, a copy of the tariff, as adopted, will be available for review.

In addition, Sprint asked the Commission for clarification of the term "substantial changes." As described above, the straw man proposal stated that if the proposed revisions to the underlying tariff are substantial, the Commission would not let the CLEC adopt it and would require the CLEC to submit an original tariff for the Commission's review and approval. We agree with Sprint that this point should be clarified. Therefore, the Commission finds that CLECs may change the rates in the tariff they seek to adopt. However, the terms and conditions must stay the same.

#### B) Interim Tariff Approval

The Commission's second tariff proposal, as described in the straw man, would permit certified CLECs to submit a tariff to the Commission for approval, with the tariff receiving interim approval 30 days after it is filed. Under this new regulatory procedure, CLECs would be allowed to offer service to end users based on the rates, terms and conditions contained in such tariff 30 days after it is filed with the Commission, without the final approval of the IURC.

No respondents opposed our proposal to relax the tariff approval process for CLECs. However, the CLECs that responded (Sprint, AT&T, and TRA) favor further relaxation of the process. They also would like the application process and the tariff approval process to apply to facilities-based CLECs, not just bundled resellers. These

parties contend that because CLECs have little market power, it is not necessary to go through the formal tariff review process reserved for ILECs.

The Commission finds merit in the positions of these parties, and therefore, amends the original straw man proposal. Pursuant to the argument of AT&T, Sprint, and TRA, the Commission will provide final approval to the rates included in the tariff one day after it is filed with the Commission. However, the Commission will grant interim approval to the terms and conditions of a CLEC's tariff one day after it is filed with the Commission, but declines to grant this streamlined application process to facilities-based CLECs at this time. There will be no deadline for final Commission approval of the tariff terms and conditions.

As discussed in the straw man, the Commission does not consider this new tariff approval process to be an additional declination of its jurisdiction over CLECs and their tariffs. Indeed, if the Commission receives complaints from end users or other carriers, we will use our authority to investigate such complaints and may require the carrier to make revisions to the interim terms and conditions contained in its tariff, if deemed necessary. As stated earlier, the goal of this proposal is to advance local exchange competition by streamlining the Commission's administrative procedures so as to allow competitors to enter the market more quickly.

#### C) Submission of a Proposed Tariff

The Commission's July 1, 1996 Order in Cause No. 39983 requires a CLEC petitioning for authority to provide local exchange service on a bundled resale basis to submit a proposed tariff to the Commission with its application. The Commission amends this requirement so all CLEC applicants, both facilities-based carriers and bundled resellers, should now submit their proposed tariffs to the Commission for review and approval after they receive a CTA. Of course, this revision does not prevent a CLEC from submitting an illustrative tariff with its application if it so chooses.

### **III. CLEC Customer Service Information**

In order to promote competition in the market for local telephone service in Indiana, the Commission proposed in the straw man that CLECs be required to provide the Commission with the following information:

- 1) all certified CLECs (either those that are currently certified or receive a CTA at some future date) will be required to file their customer service information (address and telephone number) with the Commission, as well as any subsequent changes to this information; and
- 2) all certified CLECs will be required to notify the Commission when they begin to provide service in an exchange, and whether business and/or residential customers are being served.

This information would be submitted to and maintained by the Commission's Consumer Affairs Division, and placed on the Commission's web page for public dissemination. As stated in the straw man, the goal of this new process is to promote competition and customer choice by helping consumers make more informed decisions about their telecommunications services.

Comments filed with the Commission expressed little opposition to the first provision, although several CLECs that filed comments in this proceeding (AT&T, MCI WorldCom, Sprint) opposed the second provision on the grounds that it created additional regulatory burdens and/or should not be the responsibility of the Commission. In contrast, the OUCC supported this requirement, stating the following:

The Commission, and indeed the concept of permitting competition in the provision of public utilities, exist primarily to protect or further the interests of Indiana consumers. Information that will permit those consumers to avail themselves of competitive developments in the local exchange market should properly be made available to consumers by the Commission, as well as by the LECs. (OUCC Reply Comments at page 6)

The Commission agrees with the OUCC. As discussed in the straw man, the Commission's Telecommunications and Consumer Affairs divisions have received many calls over the past several months from consumers who would like to sign up with a CLEC. Specifically, these individuals would like to know 1) which CLECs are serving their exchange and 2) how to contact these carriers. Unfortunately, the Commission does not currently have this information. The Commission believes that requiring carriers to provide the information described above would benefit the public interest and promote competition for local exchange telephone service in the state of Indiana. Further, pursuant to the recommendation of the OUCC, CLECs only will be required to provide the Commission information about any new exchanges served and the customers served in those exchanges on a monthly basis.

Finally, the Commission feels it is necessary to respond to requests by parties that the streamlined application and tariff requirements adopted in this proceeding apply to all CLECs, whether they provide service on a facilities-basis or through bundled resale. The Commission agrees with the OUCC's position that "there is sufficient variation to suggest that it would be inappropriate to apply bundled resale CLEC CTA standards and procedures to all facilities-based CLEC applications." Therefore, the streamlined application process adopted by this order will be available to CLECs that seek to provide service on a bundled resale basis only. Indeed, this form was developed with bundled resellers in mind; had the Commission intended this form to be used by CLECs seeking facilities-based authority, it certainly would have included additional questions regarding issues including, but not limited to, use of rights-of-way, installation and maintenance of facilities, etc.



However, as noted above, the Commission does believe that the revised tariff approval procedures should be available to all CLECs, regardless of the manner in which they provide service. Though a CLEC's service provision differs depending on the type of authority granted, the same rules and regulations govern the rates, terms and conditions outlined in a CLEC's tariff, whether the CLEC provides service through its own facilities or resells the service of an ILEC. We also would like to clarify that the new reporting requirements also apply to both facilities-based and bundled resale CLECs.

The Commission's adoption of these new regulatory procedures will substantially change the manner in which it certifies carriers and approves tariffs. The application form adopted herein has been approved by the appropriate State agency and will be available through our web page (<http://www.ai.org/iurc/>).

With regard to the revised tariff approval process, we see no need to delay implementation. Therefore, as of the date of this order, the revised tariff approval procedures will be in effect. With regard to CLECs that have tariffs pending before the Commission, we find those carriers should submit revised tariffs to the Commission for approval at their earliest convenience. Given that many of these tariffs were submitted to the Commission quite some time ago, we are providing those carriers an opportunity to submit a tariff that best meets their current business plans. In addition, this will provide certified CLECs that do not have an approved tariff an opportunity to avail themselves of the tariff adoption procedure outlined herein.

Finally, we expect all CLECs certified in the state of Indiana to provide the Commission's Consumer Affairs Division with the customer service information and exchange-level information described earlier no later than 30 days after the issuance of this order. Exchange-level information must be submitted to the Commission on a monthly basis thereafter. To avoid confusion, the Commission finds that carriers should provide this information on the first day of each month.

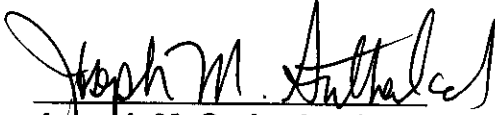
**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

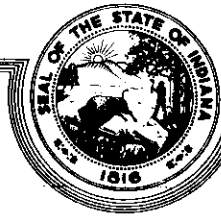
1. The streamlined regulatory and administrative procedures as outlined above shall be and hereby are approved.
2. This Order shall be effective on and after the date of its approval.

**McCARTY, RIPLEY AND ZIEGNER CONCUR;**  
**SWANSON-HULL NOT PARTICIPATING; KLEIN ABSENT;**  
**APPROVED:**

SEP 09 1999

**I hereby certify that the above is a true  
and correct copy of the Order as approved.**

  
**Joseph M. Sutherland**  
**Secretary to the Commission**



**Verified Petition for a Certificate of Territorial Authority  
To Resell Bundled Local Exchange Telephone Services  
Within the State of Indiana  
(As addressed by Cause No. 39983)**

**IURC Cause No. \_\_\_\_\_**

Petitioner		
Legal Name of Company:		
Name(s) under which the company will be marketing services in Indiana:		
Company Address:		
Name of company's contact person for ongoing regulatory affairs and/or complaints:		
Telephone Number	FAX Number	E-mail Address
Name of attorney or contact person for this application:		
Telephone Number	FAX Number	E-mail Address
Customer service contact information (address and telephone number):		
<p>A. Does petitioner currently have a Certificate of Territorial Authority (CTA) in the state of Indiana? If so, please list the CTA number and the type of authority it grants.</p>		
<p>B. What type(s) of customers will the petitioner serve? (check all that apply)</p> <p align="center"> <input type="checkbox"/> Business  <input type="checkbox"/> Residential                 </p>		
<p>C. What services will the petitioner offer to its customers? (e.g., local service, CENTREX, etc.)</p>		

D. Which underlying carrier(s) will provide these services?

E. What areas of the state will the petitioner serve?

☐ All of Indiana

☐ Other \_\_\_\_\_

F. Who bills customers for services?

☐ Petitioner

☐ Local exchange carriers (under contract)

☐ Third Party (please identify) \_\_\_\_\_

G. How are complaints or disputes resolved?

☐ Petitioner resolves complaints

☐ Billing agent resolves disputes

☐ Other \_\_\_\_\_

H. Please list other states in which petitioner is authorized to provide telecommunications services, and the type of authority granted. Also, has petitioner been fined or had any restrictions placed on its provision of service?

I. Petitioner further represents that it will:

- Comply with all appropriate Indiana laws (Title 8 of the Indiana Code) and IURC regulations (170 IAC 7-1.1) and orders concerning telecommunications services in Indiana (including, but not limited to, the Commission's Interim Order on Bundled Resale and Other Issues promulgated on July 1, 1996 in Cause No. 39983) as well as any future orders the Commission may issue with regards to bundled resale of local exchange telecommunications services;
- Pay the annual public utility fee required by I.C. 8-1-6; and
- Notify the Commission within 30 days of any changed or additional name under which it will provide services, and any change in name of persons authorized to receive notice on behalf of petitioner; and
- Update the information presented in this CTA application on a regular basis; and
- Notify the Commission when the petitioner provides service to its first customer in each Indiana exchange, and whether petitioner is providing service to business and/or residence customers in each exchange.

In addition, petitioner in good faith represents that it believes granting it a CTA is in the public interest and will further the development of full and fair competition for telecommunications in Indiana.

I affirm under the penalties of perjury that the foregoing representations are true.  
(Must be signed by an officer of the company.)

X

\_\_\_\_\_  
Signature and Date

\_\_\_\_\_  
Name and Title (printed or typed)

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
FAX Number

### Additional Information

1. Include petitioner's certification from the Secretary of State authorizing petitioner to do business in Indiana.
2. Include a copy of the petitioner's most current audited balance sheet, presented in accordance with Generally Accepted Accounting Principles.
3. Include a brief statement describing the petitioner's managerial and technical ability to provide local exchange telephone service on a bundled resale basis in the state of Indiana.
4. If petitioner seeks a waiver of any of the provisions contained in the Indiana Code, Indiana Administrative Code, or prior commission orders, petitioner must describe those waivers on a separate sheet.
5. If petitioner seeks to offer Caller ID service, petitioner must file a separate petition with the IURC.
6. If petitioner plans to offer Lifeline/Link-up service, petitioner must be certified by the IURC as an Eligible Telecommunications Carrier as in Cause No. 41052-ETC-1 through 41.
7. If petitioner plans to provide alternative operator services (AOS), petitioner must request AOS authority and agree to comply with regulatory requirements established in Cause No. 38812.
8. If the petitioner seeks the authority to provide facilities-based local exchange service, interexchange service, or competitive access service, petitioner may not do so with this application.

Please mail a completed original and 13 copies to:

Joseph M. Sutherland, Secretary  
Indiana Utility Regulatory Commission  
302 W. Washington Street, Room E-306  
Indianapolis, IN 46204

Questions about this petition may be directed to the IURC Telecommunications Division at 317/232-2733.